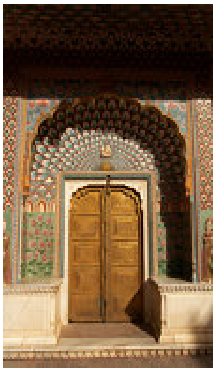
بسم الله الرحمن الرحيم

# The Truth About Taqlid (Part I)

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A JAWZIYYAH OCCASIONAL PAPER



The initial era of Islam produced many great jurists and legalists: men who not only possessed exceptional acumen, but who led profoundly spiritual lives too. These jurists have been described as 'grammarians of the Divine Word': explaining it, systemizing it and deriving new rulings from it. Out of these many jurists, four became reknowned throughout the *ummah*. It was from them that four famous *madhhabs,* or schools of law, flowered and flourished: the Ḥanafī, Mālikī, Shāfi'ī and Ḥanbalī schools of law.

In recent times, intense schisms have arisen over the issue of *madhhabs* and the layman's relationship to qualified scholarship; the crux of which centres on four issues: (i) Can a layman take Islam directly from the Qur'an and the Sunnah? (ii) Can a layman make *taqlīd* of a qualified scholar: in other words, accept a scholar's verdict without knowing the proof? (iii) Is it necessary for a layman to strictly follow one of these *madhhabs* to the exclusion of the others? (iv) Since there were more than four great jurists, why are there just four *madhhabs;* why not more?

It is in the hope of shedding some light on these questions, and in an attempt to reduce this schisms, that this two-part paper was written. I hope it will be read with an open mind, and that its arguments and conclusions be viewed with an eye to justice. But enough as an introduction, let us turn promptly to the first part of the paper and to the topic of *taqlīd* ... definitions first.

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## I. NOT GETTING OUR WIRES CROSSED

**1.1** - Scholars and linguists agree that the term *taqlīd* has its etymology, its origin, in the Arabic word, *qallada;* which means: "To place a collar (*qilādah*) around the neck."[1] The reason it is termed as such is that the one making *taqlīd* - the *muqallid* - resigns his affair to the one he is performing *taqlīd* of. Thus he is, so to speak, like someone being 'led by the collar'.

**1.2** - As for its religious meaning, the scholars of *uṣūl al-fiqh:* those who specialise in Islamic legal theory, define *taqlīd* in various ways. One of the most widely accepted definitions is the one that Imām al-Ghazālī articulated. He says that it is: "Accepting the view of someone without a proof (*qabūlu qawli'l-ghayr min ghayri ḥujjah*)."[2]

The Committee of Senior Scholars of Saudi Arabia - then presided over by Shaykh Ibn Bāz - said about its religious definition:

"The scholars of *uṣūl al-fiqh* mention [various] definitions that serve to clarify the true meaning of *taqlīd* and its essence. From them is the view that, "*Taqlīd* is accepting the opinion of someone without knowing its proof." Others were of the view that *taqlīd* is: "Accepting the opinion of someone without a proof." Abu Ma'ālī al-Juwaynī preferred the definition that, "It is the following of someone, the following of whom is not predicated on a proof nor depends upon knowledge." These definitions given by the scholars of *uṣūl* are all similar in meaning, but they entail differences which originate in the skill of articulation. The point here, though, is to clarify the essence of *taqlīd* by means of an approximation."[3]

**1.3** - By convention, *taqlīd* usually refers to a layman (*'āmmī*) accepting a religious ruling from a qualified scholar without questioning his textual proof or juristic reasoning. In doing so the layman resigns his affair to the scholar and agrees to be guided by him; out of confidence and trust in his scholarship.[4] Shaykh Bakr Abu Zayd said: "It is required for a layman who does not have the ability to learn [law], to ask a scholar and to then act on the reply given. This is *taqlīd* in the conventional sense, its reality being: Accepting the view of someone without knowing the proof."[5]

**1.4** - Another term germane to the subject is *ijtihād*. Lexically, *ijtihād* means 'exertion'. Religiously speaking, it refers to a jurist (*faqīh*) expending every possible effort to examine the textual evidences, so as to arrive at a ruling of the Sacred Law.[6] The point here is that *ijtihād* is not just one of scholarly exertion, but of exhaustion. Fathoming the intent of the Lawgiver, and inferring new rulings from the primary sources, is indeed an uphill task. This often involves the scholar having to struggle through long days and nights so as to reach a sound legal conclusion.

**1.5** - A scholar qualified to undertake *ijtihād* is called a *mujtahid*. Those judged to be qualified and capable of such an endevour do so only after prolonged theological, legal and grammatical training. In other words, only after having acquired thorough knowledge of:

- Arabic language, grammar, and its nuances, so as to be able to understand the primary texts directly.
- The Makkan and Medinan verses of the Qur'an, and the occasions for their revelation. In particular, he must have a complete grasp of all the legal verses (*āyāt al-aḥkām*) of the Qur'an.
- The *Sunnah,* and what is connected to the soundness or weakness of a *ḥadīth*. More particularly, he must have a full command of the legal ordinances contained in the *Sunnah*.
- Instances of abrogation (*naskh*) in the Revelation, as well as those issues wherein jurists have reached a consensus.
- Islamic legal theory (*uṣūl al-fiqh*), so that he is able to identify what texts are general, specific, absolute, qualified, abrogating and abrogated. He must also know the general juristic maxims (*al-qawā'id al-fiqhiyyah*) as well as their application, and know the objectives, or *maqāṣid,* of the Sacred Law.
- Possess a discerning intellect and be able to apply the procedures of analogical inference (*qiyās*). Moreover, he must also be an upright ('*ādil*) person whose judgement can be trusted by people.[7]

Needless to say, the *ijtihād* of a *mujtahid* must never contradict anything clear-cut in the sacred texts, and the entire process is surrounded by safeguards so as to avoid innovation.

## 2. THE PRESCRIBED TAQLID

**2.1** - To generalise about *taqlīd* and alledge that it is all 'blind following', makes it out to be entirely pejorative, obscuring the fact that scholars divide *taqlīd* into two classes: lawful and unlawful. Shaykh al-Shanqīṭī discloses that "Research reveals that *taqlīd* includes a type that is permitted and a type that is not."[8]

**2.2** - The permissible *taqlīd* is grounded in the texts of the Qur'an and Sunnah, and in the practice of the Companions. Shaykh Ibn Mu'ammar sheds some light on the topic. He wrote:

"The permitted *taqlīd* is following the [ruling of] scholars when there is an inability to understand the textual proof (*dalīl*). The people to whom this applies are of two groups: Firstly, the laymen; those who are not versed in jurisprudence (*fiqh*), nor in the prophetic traditions (*al-ḥadīth*), and neither can they evaluate the sayings of the scholars. Such people are required to perform *taqlīd;* there being no contention about this. In fact, a number of scholars have even recorded a consensus to this effect.

"Secondly, someone who has some awareness of a *madhhab;* a school of law, and has studied a few of the text-books of the later scholars - like *al-Iqnā'* or *al-Muntahā* in the Ḥanbalī school; the *Minhāj* or its like in the Shāfi'ī school; *Mukhtaṣar Khalīl* and its like in the Mālikī school; or *al-Kanz* and its like in the Ḥanafī school - yet, despite this, is deficient in investigating proofs and evaluating the jurists' views. Such a person is also

required to perform *taqlīd,* as he is not obliged to bear what he is unable to, for. *Allāh does not charge a soul with more than it can bear.*[9]

"The textual stipulations from the scholars about the legality of *taqlīd* for such people are numerous and well-known, and are rooted in the saying of Allāh, Exalted is He: *Ask the people of knowledge if you do not know.*[10] There is also the *ḥadīth* of the Prophet, peace be upon him: "Why did they not ask if they did not know? Indeed, the cure for ignorance is to ask."[11] So the lay people have not - since the age of the Companions, the Successors, and those who followed them - ceased asking the scholars for verdicts about the rulings of the Sacred Law. Scholars in turn have eagerly responded to these queries without necessarily mentioning the proofs: nor did they forbid this to them in the least. So this is a point of consensus that the lay people performing *taqlīd* of their *mujtahid* scholars is permissible, and that they are only required to ask someone whom they deem to be a scholar."[12]

**A CONUNDRUM**

**2.3** - Earlier, *taqlīd* was defined as a person accepting the ruling of a scholar while not knowing the proof for it. So how can a person who has 'acquired some awareness of a *madhhab'*, and who, it can reasonably be assumed, has encountered some proofs, still be a *muqallid.* Ibn Taymiyyah's words help resolve this dilemma: "As for someone who knows the view of one scholar and his proof, but not the other scholar or his proof, is from the generality of the the *muqallids*. He is not of those scholars able to evaluate proofs and weigh them up."[13]

This is a crucial point that many have failed to comprehend. The majority of jurists maintain that if a person knows a basic proof for any given issue, but is unaware of the complete proofs, he is still a *muqallid* (some calling him a *muqallid muttabi'*). This total knowledge entails: knowing the proof; knowing how rulings arise from it; and knowing how to resolve any textual conflicts. Thus the *muqallid* includes: (i) a layman who does not know the proof; and (ii) a semi-experienced jurist or student-jurist who may be familiar with some proofs, though in an incomplete manner.

**THE GHAZALIAN METAPHOR**

**2.4** - In *al-Mustaṣfā,* al-Ghazalī likens Islamic legal theory, and the competence to extract legal rulings, to a tree cultivated by a man. He explains that the fruits of the tree represent the legal rulings - which are the purpose for planting the tree in the first place. Its trunk and branches are the textual material that allows the tree to bear fruit and sustain them. But in order for the tree to be cultivated, human agency must play its part. The method used in cultivating the tree is a metaphor for the juristic methods and principles employed by the cultivator: the cultivator who brings the tree to fruition being, in this metaphor, is the *mujtahid.*[14]

**2.5** - In Islam's juristic vocabulary, anyone who is not a *mujtahid* is, by default, a *muqallid* - a follower or imitator of a *mujtahid.* In turn, the *muqallid* is sub-divided into one who is a non-*mujtahid* jurist (*faqīh*), a student-jurist (*mutafaqqih*), and finally a layman (*'āmmī*).

**THE DOMAIN OF TAQLID**

2.6 - *Taqlīd* is only allowed in those issues which do not constitute the fundamantals (*uṣūl*) of Islam: that is to say, issues that are widely-known and whose proofs are *qaṭ'ī:* definite, clear-cut and univocal. It is in the *furū',* the details of the Sacred Law, wherein the proofs are - *ẓannī:* open to more than one legitimate reading, that *taqlīd* is allowed. Al-Khaṭīb al-Baghdādī sketches these contours for us:

"As far as the Islamic injunctions are concerned, they are of two catagories. The first are those known by necessity to be part of the Prophet's religion, peace be upon him, such as the five daily prayers, the wealth-tax (*zakāt*), pilgrimage; and also [knowing] the prohibition of adultery and intoxicants, etc. In such matters *taqlīd* is not lawful, since these are issues every person is required to know about. The second are those rulings arrived at via juristic inferrence, like the details of the devotional acts (*'ibādāt*) or social transactions (*mu'āmalāt*). It is in these matters that *taqlīd* is permitted."[15]

Ibn Badrān portrays the issue in these words: "*Taqlīd* is forbidden in [matters like] knowing Allah, Exalted is He; Divine Unity (*tawḥīd*); and Prophethood, according to Imām Aḥmad and his collegues - which is the truth. It is also forbidden in [knowing the obligatory nature of] the Five Pillars of Islam and those other issues that are decisive and well-known. In fact a consensus is recorded to this effect. As for *taqlīd* in the details of the Sacred Law (*furū'*) it is allowed for other than the *mujtahid* by consensus."[16]

**UNDERSTANDING ITTIBĀ'**

2.7 - *Follow what is sent down to you from your Lord,* says the Qur'an, *and follow not protecting friends other than Him.*[17] Elsewhere the Qur'an informs: *And when it is said to them: "Follow what Allah has sent down," they say: "We shall follow that wherein we found our forefathers."*[18]

The idea of "following" the Revelation, or *ittibā',* is a cardinal theme of the Qur'an. As alluded to previously, textual proofs are of two broad catagories: *Firstly,* those proofs that are clear-cut and univocal; open to a single legitimate reading. *Secondly,* those that are more speculative in nature, their intent harder to fathom and unravel; or they are such that they seem to be in conflict with other similar proof-texts on the topic. The first catagory demands of a believer *ittibā'* - straightforward "following". The second requires a *mujtahid* to infer a legal ruling or resolve the textual conflict, and for all non-*mujtahids* to submit to the *mujtahid's* authority vis-a-via *taqlīd*. Shaykh Bakr explains: "Any ruling whose textual proof from in Book, the Sunnah, or scholarly consensus (*ijmā'*) is clear-cut and free from textual conflict (*sālim min al-mu'āriḍ*) - then *taqlīd* is not permitted, nor is *ijtihād.* Instead *ittibā'* is what is incumbent. The reality of *ittibā'* is: accepting what is confirmed by a proof from the Book, the Sunnah, or a scholarly consensus - provided it is free from textual conflicts.[19]

## 3. TAQLID AND MUSLIM ORTHODOXY

3.1 - One hadith states: "My ummah will not unite upon misguidance."[20] This is among the various proof-texts used by scholars to assert the binding nature of *ijmā';* scholarly

consensus. *Ijmāʿ* is defined as "The unanimous agreement of the *mujtahid* scholars in any era after the demise of the Prophet, peace be upon him, on any issue."[21] This *ijmāʿ* constitutes the third source of authority after the Qur'an and Sunnah.

#### THE SCHOLARLY CONSENSUS

3.2 - One area in which an *ijmāʿ* has been recorded is in the legality of a layman accepting the fatwa of a scholar without being obliged to know the proof. In other words, in the lawfulness of *taqlīd.*

Imām al-Qurṭubī says: "No difference exists among the scholars that the laymen are to perform *taqlīd* of their scholars.[22]

Ibn Qudāmah explicitly states: "As far as *taqlīd* in the details of the Sacred Law (*furūʿ*) is concerned, it is allowed by consensus."[23]

In earlier times, Ibn ʿAbd al-Barr, the great Spanish jurist and hadith master, explained: "The laymen must practice *taqlīd* of their scholars in those situations which require it, since they are not able to understand proofs ... Scholars concur that the laymen must practice *taqlīd* of their scholars, who are the ones intended in the words of Allāh, Majestic is He: *Ask the people of knowledge if you do not know*. They agree that a blindman must accept the judgement of one whom he considers trustworthy, so as to determine the direction of prayer, if it is difficult to do so himself. In a similar vain, someone unable to acquire knowledge of the intent of what he has been ordered to submit to is likewise required to accept the verdict of a scholar."[24]

In more recent times, Imam al-Shanqīṭī wrote: "The prescribed *taqlīd,* which none of the Muslims contest, is the layman's performing *taqlīd* of a scholar qualified to issue legal *responsa* on various matters. This type of *taqlīd* was in vogue during the time of the Prophet, peace be upon him, and there was no contention about it. The layman asked whosoever he wished from the Companions of the Prophet, may Allah be pleased with them, about the ruling for a given case. Whenever a fatwa was given, he simply complied with it."[25]

#### DIVERGING FROM ORTHODOXY

3.3 - A consequence of contravening an established consensus is that it violates orthodoxy. Such is the case with prohibitting *taqlīd* in the details of the Sacred Law, for doing so has historically been the shibboleth of certain innovators. Scholars have, therefore, not ceased warning the *ummah* against this infraction. Imam al-Shanqīṭī, among other jurists: classical and contemporary, asserted this historical truth: "None have opposed the lawfulness of the layman practicing *taqlīd,* except some of the Qadarites."[26]

Let us be clear about the innovation, or *bidʿah,* here. Some hold to the notion that, yes, a layman is required to follow scholars, but in doing so he must ask for a proof (*dalīl*) for the ruling he is given. It is this that is the actual *bidʿah* which scholars have consistantly cautioned against. Al-Khaṭīb al-Baghdādī asserts:

"It has been said by some of the Mu'tazilites: "It is unlawful for a layman to act on the opinion of a scholar until he knows the reason behind the ruling. So whenever he asks a scholar, he must ask such that he knows how the ruling came about. When he comprehends this, he should then act upon it." This, however, is utterly wrong! For there is no way for a layman to have true comprehension, except by studying for many years, participating in scholarly discussions, and developing a thorough grasp of *qiyās,* or analogical inference."[27]

Imam Ibn Qudāmah puts this errant notion in its correct place and perspective: "It is the stance of a faction of Qadarites that the laymen are required to investigate proofs, even in *furū'* issues. This, however, is futile by consensus of the Companions."[28]

**TAQLID AND THE SALAFIS**

3.4 - One notion that has become ubiquitous in our time is that scholars associated with the *salafī* school or methodology - like Ibn Bāz, al-'Uthaymīn and al-Albānī; and the likes of Ibn Taymiyyah and Ibn al-Qayyim - are seen as being 'anti-*taqlīd'* and of forbidding it totally. This - even it is held by many an admirer and detractor alike - is a gross error.

Ibn Bāz stipulates in one legal *responsum,* or fatwa: "For anyone incapable in the matter, making *taqlīd* of a person known for their learning, virtue and firmness upon the creed is allowed by necessity. This was clarified by the learned scholar, Ibn al-Qayyim, may Allāh have mercy upon him, in his book, *I'lām al-Muwaqqi'īn.'*"[29]

Shaykh al-Albānī penned a slim monograph on this topic which includes the following section, entitled: "*Taqlīd* is permitted to someone incapable of arriving at the proof for themselves."[30]

Shaykh al-'Uthaymīn wrote: "*Taqlīd* is legislated in two places: Firstly, if the *muqallid* is a layman who is unable to uncover the ruling by himself. In this case *taqlīd* is incumbent on him, as per Allah's words: *So ask the people of knowledge if you do not know.* He is to perform *taqlīd* of one whom [he deems] is learned and pious. If two scholars are of equal rank in his view, he chooses any of them. Secondly, if the *mujtahid* is faced with a new situation which requires an immediate response, but he is unable to investigate the matter. In such a case, he is allowed to perform *taqlīd* [of another *mujtahid]*.[31]

As for the much misunderstood (and maligned) Ibn Taymiyyah, his take on *taqlīd* is crystal clear: "The majority position of the *ummah* is that, in general, both *ijtihād* and *taqlīd* are lawful. *Ijtihād* is neither mandatory on everyone while *taqlīd* forbidden to them, nor is *taqlīd* mandatory upon one and all and *ijtihād* forbidden them. Rather, *ijtihād* is obliged on those who have the required qualifications, whereas *taqlīd* is obligated whenever there is an inability to perform *ijtihād.*"[32]

## 4. WHAT ABOUT THE PROOFS

"Knowledge," it is said "is of three spans: whoever enters the first span becomes arrogant; whoever enters the second becomes humble; whoever enters the third realises just

how little he really knows."[33] A similar sentiment of how a small amount of learning can delude people into thinking they are more expert than they really are, finds resonance in Alexander Pope, a famous English poet, who wrote:

*A little learning is a dangerou thing:*
*Drink deep, or taste not the Pierian spring.*
*There shallow draughts intoxicate the brain,*
*And drinking largely sobers us again.*

**PROOFS: THE BRUTE FACT**

4.1 - To those who make it mandatory for a layman to know the textual proofs for the rulings he learns, Shaykh al-Albānī offers these cautionary remarks:

"So you see a layman who has no [juristic] understanding, yet when he asks a scholar for a ruling on an issue, even if the answer is a prohibition, he quickly adds: 'What is the proof?' But sometimes it is not possible for a scholar to provide proofs, especially if it is arrived at by way of juristic derivation - not being stipulated in the Qur'an or Sunnah such that it may be quoted. In such a case the questioner should not try to delve into the issue by asking, 'What is the proof?' Instead, he should examine his own state: Is he of those who understands proofs or not? Does he know the concept of general (*'āmm*) and specific (*khāṣṣ*); unqualified (*muṭlaq*) and qualified (*muqayyad*); abrogating (*nāsikh*) and abrogated (*mansūkh*)? No, he understands nothing of this at all. Hence will his asking, 'What is the proof?', 'What is the basis?' be of any use to him? ... So it is not always the case that a question will have a proof which will be understood by every Muslim, be he a layman or a student of knowledge. Thus Allah says: *So ask the people of knowledge if you do not know.*

"From the immoderate behaviour that I have alluded to, and because of which the most ignorant of people refuse the proofs, is that many of those who ascribe to following the Book and Sunnah give the false impression that whenever a scholar is asked about an issue, he must include as part of his reply: 'Allah said ...', or 'The Prophet said ...' This, however, is not a condition, and this is one of the benefits of being attached to the path of the Pious Predecessors, may Allah be pleased with them all. Indeed their legal *responsa* are a living testimony to what I have just said.[34] Mentioning the proof becomes obligatory when the situation demands it. But it is not required of a scholar, whenever a question is asked of him, to reply: 'The Prophet, peace be upon him, said such and such' - especially if the question is a complicated juristic issue concerning which there is a difference of opinion over."[35]

4.2 - In light of what has preceeded, how can it be right to raise the banner of 'anti-*taqlīd'* and to make the seeking of proofs incumbent on each and every soul - even if they be an unlearned layman. In fact, to those who do insist on this, it should be asked: "What is the actual proof to obligate asking for the proof?"

**TAQLID IN HADITH AUTHENTICATIONS**

4.3 - Scholars and laymen alike are allowed to make *taqlīd* of the hadith specialists (*ahl*

*al-ḥadīth, muḥaddithūn*) in knowing the soundness or otherwise of a hadith. Again, this is something about which no difference exists. Ibn Muʿammar says:

"As to the question of whether [one is obliged] to examine the soundness of a hadith's transmission, or can one suffice with *taqlīd* of the hadith experts in their grading a report to be authentic (*ṣaḥīḥ*) or sound (*ḥasan*)? The response is: Their verdict suffices. In *Sharḥ Mukhtaṣar al-Taḥrīr* it states: "A condition for a *mujtahid* is that he must know the soundness and weakness of a hadith - chain and text - even if this is arrived at by way of *taqlīd* of what is stated in the authoritative *ḥadīth* anthologies of the specialists, such as Mālik; Aḥmad; al-Bukhārī; Muslim; Abu Dāwūd; Tirmidhī; al-Dāraquṭnī; al-Ḥākim; and their like. Since they are specialists in this [discipline], it is perfectly legitimate to accept their evaluations."[36]

In *al-Muswaddah,* a famous book on Ḥanbalī legal theory, it says of the layman that, ":It is permitted for him to resort to the hadith specialists so as to know whether a report is sound or not. He is not required to learn this [science], by consensus."[37]

**THE PLACE OF PROOFS**

**4.4** - Although asking for proofs is not mandatory for a layman, a student of knowledge possessing a discerning intellect should, though, accustom himself to comprehending proofs. Shaykh Ibn Bāz *et al.* said: "If the one asking the question is a student of knowledge possessing strong comprehension, he should investigate the proofs from the scholar and discuss with him until he is satisfied, and until he gains clarity and insight into the ruling and its proof. If not, he suffices with the reply of the scholar."[38]

**4.5** - Who is or isn't required to investigate proofs, then, rests largely on each of us realising our own level; problems arising only when levels are overstepped. Ibn Ḥazm, the Andalusian polemicist and polymath, writes in his treatise on ethics: "There is no worse calamity for knowledge and its people than when outsiders intrude. They are ignorant, but presume to know. They cause trouble yet think that they are helping."[39]

Such intrusions not only corrupt, they can also devalue knowledge and its teachers in the eyes of others. Of old, an Arab poet laments:

*Each fool has put himself forward to teach;*
*Dull witted, yet claiming to be a scholar or teacher.*
*So it is fitting that the learned should quote;*
*The ancient poem, well-known and cited in all sittings:*
*"The sheep is so scrawny that its kidneys are visible;*
*So that even the poor destitute person passes it by."*

**4.6** - In the literary genre known as *Adab al-Muftī* - those treatises that explain the role of a jurisconsult (*muftī*); the interpretive methods used by him; and the manners of the questioner, the *mustaftī* - it addresses the way in which a *muftī* should reply to a non-specialist layman. Fatwas should consist of single-phrase answers, like *"yajūz* - allowed," and *"lā yajūz* - not permitted." In other words, the *muftī* should keep the fatwa clear and

uncomplicated, and nor is he required to state the proof. Imām al-Nawawī does, however, say that, "It is not objectionable for a *muftī* to indicate the proof in his *responsum,* if it is a text that is clear and short."[40]

**4.7** - A excellent illustration of this can be observed in Imam Aḥmad bin Ḥanbal's legal *responsa*. A number of his students compiled small tracts, entitled *al-Masā'il,* in which they documented questions, or *masā'il,* which they personally asked Imām Aḥmad, or had heard being asked to him; along with his response. The *Masā'il* of 'Abd Allah, son of the Imam, typifies the genre. For instance, of the fifty-nine questions put to him concerning the description of the prayer, *ṣifat al-ṣalāt,* Imam Aḥmad responds to twelve with some textual proof.[41] This, in a subject where the textual proofs are abundant; and from a scholar who is famed for having committed to memory, not just the Qur'an, but also an estimated one million hadiths.[42]

## 5. LEARNING AND THE LAYMAN

Undoubtedly, in Islam, seeking sacred knowledge receives the highest endorsement. The Prophet, peace be upon him, gives the good news that, "Whoever traverses a path in search of knowledge, Allah will facilitate for him a path to Paradise."[43] There is also the hadith that, "Whoever goes out in search of knowledge is in the Path of Allah until he returns."[44]

When it comes to deriving benefit from the great hadith digests, the layman must temper his thirst for uncovering the guidance of the Prophet, peace be upon him, with an awareness of the book's overall target audience. Was it written or compiled for the general public, or for the student and scholar? Does the bulk of its content require scholarly elucidation, making it practically redundant for a layman's library? There is a sort of insanity which arises when an untutored layman seeks to delve into the works of a specialist. Scholars, being acutely aware of this, have authored certain works fit for only specialist, and others for the layman and scholar alike.

### THE LAYMAN AND HADITH ANTHOLOGIES

**5.1** - Could or should the layman benefit directly from the great hadith digests like *Ṣaḥīḥ al-Bukhārī, Ṣaḥīḥ Muslim,* etc., without having to refer back to a scholar to explain their meanings or intent? In bygone days, Ibn al-Qayyim attended to this very altercation: If someone possesses the two *Saḥīḥs* or just one of them, or one of the *Sunan* anthologies of the Prophet, peace be on him, that contain reliable and authoritative reports - can he rule and act on what he finds contained therein?

After laying out the arguments that inform the debate, he concludes: "The correct stance in the issue is that there is a distinction: If the indication, or *dalālah,* in the hadith is evident and clear to whoever hears it, and it cannot be misconstrued, he can act on it and rule accordingly - he does not need the approval of a jurist or scholar. The statement of Allah's Messenger, peace be upon him, is a proof in and of itself; regardless of who it may oppose. If, however, the indication is ambiguous or the intent from it is unclear, it is not allowed for him to act on it, nor to give a ruling based on what he thinks it may

mean, until he consults a scholar and seeks clarification about the meaning and intent of the hadith."[45]

The upshot is that those hadiths that expound upon general knowledge - like those dealing with basic issues of belief, morals and ethics; the virtue and prescription to pray, fast, give charity; not sever ties of relations, consume intoxicants, lie backbite, slander, breach contracts or covenants, etc. - may be read and acted upon by the lay people: this is something they are encouraged to do. With regards the hadiths which deal with the details of the Sacred Law, the layman must consult a scholar before acting on them, so as to know their rulings and intent. This is very much like the case of the Qur'an and its verses - bearing in mind its overall purpose: *This is a Book that We have sent down to you, full of blessings, that they may reflect upon its verses, and that men of understanding may be reminded.*[46]

**WHEN LEARNING TURNS TRAGIC**

5.2 - Shaykh Ṣāliḥ al-Fawzān was asked: Is it allowed for a person to give a ruling on an issue whilst he is unlearned, even of the Arabic language or of the rules of jurisprudence and legal theory? His response:

"This is certainly not allowed. This is a widespread calamity that has befallen the Muslim world, in that there have arisen youths from among the laity who have their own personal libraries. They read books [of knowledge] and then go out and voice their opinions and give rulings to people. They do not understand the text, let alone the consequence. Their example is like those who read letters but do not understand them, or like an Arab that reads non-Arabic words; or visa-versa. In both cases he will not be able to understand what is meant. This will lead to misconstruing the noble hadiths - the sound ones and those that have been criticised - while being ignorant of their true meanings. This would be like a madman who has a sword or a gun; he will certainly be a threat to others. Or like someone who drives a car among people, even though he cannot drive properly: this would be dangerous and reckless! Indeed *fiqh* is something tremendous which Allah, Majestic is He, places in the hearts of whoever He chooses. It demands serious study, intelligence, perseverence, and traversing the various stages of learning and acquiring knowledge until one is able to reach the desired goal."[47]

This, then, concludes the first part of the subject, "The Truth About Taqlid." The second and final part of this paper will discuss, God-willing, the prohibitted types of *taqlīd,* as well as the issue of *madhhabs;* schools of Islamic law.

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## END NOTES

1. Najm al-Dīn al-Ṭūfī, *Sharḥ Mukhtaṣar al-Rawḍah* (Beirut: Mu'assasah al-Risālah, 1410H), 3:65.
2. *Al-Mustaṣfā min 'Ilm al-Uṣūl* (Cairo: Maktabah al-Tijāriyyah, 1356), 2:387.
3. Ibn Bāz et al., *Fatāwā al-Lajnat al-Dā'imah li'l-Buḥūth al-'Ilmiyyah wa'l-Iftā'* (Riyadh: Ri'āsat Idārat al-Buḥūth al-'Ilmiyyah wa'l-Iftā', 1996), 5:29.

4. Cf. ʻAbd Allah al-Fawzān, *Sharḥ al-Waraqāt* (Riyadh: Dār al-Muslim, 1417), 260.

5. *Al-Madkhal al-Mufaṣṣal ilā Fiqh Imām Aḥmad b. Ḥanbal* (Riyadh: Dār al-Tawḥīd, 1411), 1:64.

6. Al-Shīrāzī, *al-Lumaʻ fī Uṣūl al-Fiqh* (Beirut: Dār al-Kutub al-ʻIlmiyyah, 1422),129, where he defines it as: *"istifrāgh al-wusʻ wa badhlu'l-majhūd fī ṭalabi'l-ḥukmi'l-sharʻī:* exerting the utmost effort and leaving no stone unturned in order to arrive at a religious ruling."

7. As per Ibn ʻUthaymīn, *al-Uṣūl min ʻIlmi'l-Uṣūl* (Beirut: Mu'assasah al-Risālah, 1413), 97-98. Also consult Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 1997), 374-377.

8. *Aḍwā' al-Bayān fī Īḍāḥ al-Qur'ān bi'l-Qur'ān* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1417), 7:318.

9. Qur'an 2:286.

10. Qur'an 21:7.

11. Abu Dāwūd, *Sunan,* no.337.

12. *Risālah fi'l-Ijtihād wa'l-Taqlīd* (Jeddah: Dār al-Andalūs, 1421), 43-6.

13. *Majmūʻ al-Fatāwā* (Riyadh: Dār al-ʻĀlam al-Kutub, 1412), 35:233.

14. *Al-Mustaṣfā,* 1:7-8.

15. *Al-Faqīh wa'l-Mutafaqqih* (Riyadh: Dār al-Iftā', 1385), 2:67.

16. Ibn Badrān, *al-Madkhal ilā Madhhab Aḥmad bin Ḥanbal* (Egypt: Idārah al-Tabā'iyyah al-Munīriyyah, 1962), 205.

17. Qur'an 7:3.

18. Qur'an 2:170.

19. Bakr Abu Zayd, *al-Madkhal al-Mufaṣṣal,* 1:65. Textual conflict (*taʻāruḍ*) occurs "when each of two evidences of equal strength requires the opposite of each other. This would mean that if one of them affirms something, the other would negate it at the same time and place ... The *mujtahid* must therefore try to reconcile them as far as possible, but if he reaches the conclusion that they cannot be reconciled, then he must attempt to prefer one over the other. If the attempt at reconciliation and preference fails, then one must ascertain whether recourse can be had to abrogation, which should be considered as the last resort. But when abrogation also fails to offer a way out of the problem, then action must be suspended altogether and both of the conflicting texts are abandoned." Cf. Kamali, *Principles of Islamic Jurisprudence,* 356-357.

20. Abu Dāwūd, no.4253; al-Tirmidhī, *Sunan,* no.2167. The hadith has been graded as *ḥasan* by al-Albānī, *Silsilat al-Aḥādīth al-Ṣaḥīḥah* (Riyadh: Maktabah al-Maʻārif, 1407), no.1331.

21. Al-Āmidī, *al-Iḥkām fī Uṣūl al-Aḥkām* (Beirut: Dār al-Kitāb al-ʻArabī, 1984), 1:96.

22. *Al-Jāmiʻ li Aḥkām al-Qur'ān* (Beirut: Dār al-Kutub al-ʻIlmiyyah, 1417), 11:181.

23. *Al-Rawḍatu'l-Nāẓir wa Jannat al-Manāẓir* (Riyadh: Maktabah al-Rushd, 1414), 3:1015.

24. *Jāmiʻ Bayān al-ʻIlm wa Faḍlihi* (Beirut: Dār al-Kutub al-ʻIlmiyyah, n.d.), 2:115.

25. *Aḍwā' al-Bayān,* 7:318.

26. *Mudhakkirah fī Uṣūl al-Fiqh* (Egypt: Dār al-Yaqīn, 1419), 534. The Qadarites (Ar. *Qadariyyah*) are one of the main hetrodox, or innovated sects in Islam. A description of their beliefs and heresiarchs can be found in classical writings on Muslim heresiology, such as ʻAbd al-Qāhir al-Baghdādī, *al-Farq Bayna'l-Firaq* (Beirut: Dār al-Ma'rifah, 1417), 112-72. The Muʻtazilites (Ar. *Muʻtazilah*) are another such sect.

27. *Al-Faqīh wa'l-Mutafaqqih,* 2:68.

28. *Al-Rawḍatu'l-Nāẓir,* 3:1019.

29. *Majmūʻ al-Fatāwā wa Maqālāt Mutanawwiʻah* (Riyadh: Maktabah Maʻārif, 1413), 3:52.

30. *Ḥadīth Ḥujjatun bi Nafsihi fi'l-ʻAqīdah wa'l-Aḥkām* (Kuwait: Dār al-Salafiyyah, 1415), 84.

31. *Al-Uṣūl min ʻIlm al-Uṣūl,* 100.

32. *Majmūʻ al-Fatāwā,* 35:123. Ibn Taymiyyah's views on *taqlīd* have been collected in one slim volume in Muḥammad Shākir al-Sharīf, *al-Durrat al-Bahiyyah fi'l-Taqlīd wa'l-Madhhabiyyah min Kalām Shaykh al-Islām Ibn Taymiyyah* (Riyadh: Maktabah al-Ḥaramain, 1986).

33. Ibn Jamā'ah, *Tadhkirat al-Sāmiʻ,* 65; cited in Bakr Abu Zayd, *Ḥilyatu Ṭālib al-ʻIlm,* (Riyadh: Dār al-ʻĀṣimah, 1993), 55.

34. Refer to the last point in this chapter (4.7).

35. *Al-Aṣālah,* no.8, 76-8, 1414H. A Jordanian based-journal (defunct, I think) which featured a regular fatwa section with the Shaykh.

36. *Risālah fi'l-Ijtihād wa'l-Taqlīd,* 67-9.

37. Āl Taymiyyah, Majd al-Dīn, Shihāb al-Dīn, Taqī al-Dīn, *al-Musawaddah fī Uṣūl al-Fiqh* (Cairo: Matbaʻah al-Madanī, n.d.), 408.

38. Ibn Bāz et al., *Fatāwā li'l-Lajnat al-Dā'imah,* 5:53.

39. *Al-Akhlāq wa'l-Siyar fī Mudāwāt al-Nufūs* (Beirut: Dār al-Kutub al-ʻIlmiyyah, 1405), 24.

40. *Adab al-Fatwā wa'l-Mustaftī,* 64; cited in Masud, Messick, Powers, *Islamic Legal Interpretation: Muftīs and their Fatwās* (Mass achusetts: Harvard University Press, 1996), 332.

The word *fatwā* - translated as "verdict", "reply", "*responsum*" - is from the noun *fatā:* "an energetic youth." From it comes *futuwwah:* generosity, nobility, munificence. Perhaps it is because elucidating the truth in response to a question is deemed noble that the act came to be called as such. Cf. Lane, *Arabic English Lexicon* (Cambridge: The Islamic Texts Society, 2003), 2336-7; al-Asfahānī, *Mufradāt Alfāẓ al-Qur'ān* (Damascus: Dār al-Qalam, 1423), 625.

41. 'Abd Allah b. Imām Aḥmad, *al-Masā'il* (Beirut: Maktabah al-Islāmī, 1981), 69-89; nos.250-315.

I have only included those instances where a question was actually solicited of Imam Aḥmad ("I asked my father ..." or "I heard my father being asked ..."). The six instances that were ommitted are where 'Abd Allah states: "I heard my father say ..." or "I saw my father do ...". In other words, they were not actual fatwas solicited from him. In the *responsa* concerning ritual purification (*ṭahārah*), his textual responses were significantly lower in number. All in all, the total number of *masā'il* recorded in the book amount to around two thousand.

42. Abu Zur'ah said to 'Abd Allah, the Imam's son: "Your father memorised a million hadiths. I learnt them from him, topic by topic." Al-Dhahabī, *Siyar A'lām al-Nubalā* (Beirut: Mu'assasah al-Risālah, 1419), 11:187.

43. Muslim, *Ṣaḥīḥ,* no.2699.

44. Al-Tirmidhī, *Sunan,* no.2649, who said: "The hadith is sound (*ḥasan*)."

45. *I'lām al-Muwaqqi'īn* (Riyadh: Dār Ibn al-Jawzī, 1423), 4:181, 185.

46. Qur'an 38:29.

47. *Muntaqā min al-Fatāwā* (Beirut: Mu'assasah al-Risālah, 1998), 5:359.

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